IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL No.1285 OF 1996

1. Shri Shankar Marya Chimane,)
2. Shri Kolya Kathor Chimane,)
3. Shri Parshuram Kathor Chimane)
4. Shri Waman Kathor Chimane,)...Appellants
5. Shri Tukaram Kathor Chimane,) (Original
6. Smt. Bayabai Ananta Mundkar) claimants)
7. Smt. Janaki Kathor Chimane,)

Vs.

The Special Land Acquisition)
Officer, Metro Centre No.1,).. Respondent
Panvel, district Raigad.)

Mr. N. V. Walawalkar, advocate for appellants.

Mr. S. N. Gawde, AGP for the respondent.

CORAM : Dr. S. RADHAKRISHNAN, J.

DATE : JUNE 15, 2006.

ORAL JUDGMENT :-

. By this Appeal, the Appellants who are the Original Claimants, are challanging the Judgment and Order dated 22-6-1994 of the Reference Court, passed by the Second Additional District Judge, Raigad-Alibag, in a Land Acquisition Reference.

2. It appears that land of the Appellants were acquired for New Bombay Project and the Appellants' land is situated in the Village Kamothe, Taluka Panvel. The said land was acquired for the New Bombay Project by the Notification, dated 3rd February, 1970, under Section 4 of the Land Acquisition Act, 1894, which was duly published in the

Government Gazette and the Award No. 48 was passed on 25th July, 1986 by the Special Land Acquisition Officer, Metro Centre No.1, Panvel. It appears that the above Special Land Acquisition Officer had awarded only Rs.2/- per Sq. meter. Aggrieved thereby by Applicants preferred a Land Acquisition Reference before the Reference Court for enhancement of the said compensation. The Reference Court by the aforesaid judgment and order dated 22nd June, 1994 had enhanced the compensation to Rs. 14/- per Sq. Mtr. The present Appeal has been filed, challanging the above, by the Appellants, contending therein that the Appellants are entitled to claim a compensation at the rate of Rs. 24/- per Sq. Mtr.

2. Mr. N. V. Walawalkar, the learned Senior Counsel appearing on behalf of the Appellants fairly pointed out that on the very same notification, i.e. 3rd February, 1970, issued under Section 4 of the Land Acquisition Act 1894, pertaining

to New Bombay Project and with regard to the land from the same village Kamothe, Taluka Panvel, a Division Bench of this Court in First Appeal No.757 of 2003, by its judgment and order dated 31st March, 2004, had classified the land acquired, into three groups. The first group of lands were situated within 750 Meters. from National Highway, wherein the Division Bench has fixed the market value at the rate of Rs.28/- per Sq. mtr. The second group wherein the lands were situated between 750 to 1500 Meters. from the National Highway, wherein the Division Bench has fixed market value at the rate of Rs.26/-, per Sq. Mtr. and the third category was of lands beyond 1500 Meters from the National Highway . and the market value was fixed at the rate of Rs. 23.5 per Sq.mtr and after deducting 10% and remaining the figure, fixed the market value at Rs.21/- per Sq. Mtr.

3. Mr. Walawalkar also pointed out another judgment of a Single Judge of this

Court dated 17th December, 2004 in First Appeal No. 180 of 1989, wherein the learned Single Judge had awarded compensation at the rate of Rs. 21/-per Sq. Mtr with regard to the lands beyond 1500 Sq.mtr. Mr. Walawalkar also pointed out that as his clients' land falls in the third category i.e. beyond 1500 Metres, they are entitled to compensation at the rate of Rs. 21/- per Sq. Mtr.

4. The learned Government Pleader does not dispute that Appellants' land fall under the third category i.e. beyond 1500 Metres. In view of the above facts and circumstances and Judgment of the Division Bench, dated 31st March, 2004 it is clear that Appellants are entitled to compensation at the rate of Rs.21/- per Sq. mtr. and not Rs.25/- per Sq.mtr., as claimed by the Appellants. Accordingly, the impugned reference Court's order stands modified only with regard to the quantum in the sense, the compensation shall be paid at the rate of Rs.21/- per

Sq.mtr. to the Appellants. It is also made clear that the Appellants would be entitled to all other consequential benefits, as provided under the Land Acquisition Act 1894.

5. First appeal is accordingly allowed, however, no orders as to costs.

[Dr. S. RADHAKRISHNAN, J.]